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IP LEARN LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

IP LEARN, LLC, Plaintiff and Counterdefendant, v. SABA SOFTWARE INC.; and DOES 1-10, Defendant and Counterclaimant. AND RELATED COUNTERCLAIMS.	No. C 02-02634 JW (HRL) **PLAINTIFF IP LEARN, LLC'S RESPONSES TO SABA SOFTWARE, INC.'S SECOND SET OF INTERROGATORIES**

PROPOUNDING PARTY: DEFENDANT SABA SOFTWARE, INC.

RESPONDING PARTY: PLAINTIFF IP LEARN, LLC

SET NUMBER: TWO

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff IP Learn, LLC ("IP Learn") responds to Defendant Saba Software, Inc.'s ("Saba") Second Set of Interrogatories (served March 18, 2003, entitled "Saba Software, Inc.'s First Set of Interrogatories") as follows:

I. GENERAL RESPONSES.

1. IP Learn's response to Saba Software, Inc.'s Second Set of Interrogatories ("Saba's Interrogatories") is made to the best of IP Learn's present knowledge, information, and belief.

Said response is at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of IP Learn's recollection, is subject to such refreshing of recollection, and such additional knowledge of facts, as may result from IP Learn's further discovery or investigation. IP Learn reserves the right to make any use of, or to introduce at any hearing and at trial, information and/or documents responsive to Saba's Interrogatories but discovered subsequent to the date of this response, including, but not limited to, any such information or documents obtained in discovery herein.

2. IP Learn reserves all objections or other questions as to the competency, relevance, materiality, privilege, or admissibility of evidence in any subsequent proceeding in or trial of this or any other action for any purpose whatsoever of IP Learn's responses herein and any document or thing identified or provided in response to Saba's interrogatories.

3. IP Learn reserves the right to object on any ground at any time to such other or supplemental interrogatories as Saba may at any time propound involving or relating to the subject matter of these interrogatories.

4. IP Learn reserves the right to supplement its responses to Saba's Interrogatories after IP Learn has completed its investigation and discovery in the case, after Saba has produced all appropriate documents in response to IP Learn's document requests, after deposition discovery is completed, and after third party discovery is completed.

5. Each of the claims-at-issue are presumed to be valid until Saba proves otherwise by clear and convincing evidence. Saba has not presented such clear and convincing evidence in its Preliminary Invalidity Contentions and Related Document Disclosure (the "Preliminary Invalidity Contentions.").

6. IP Learn reserves the right to object to any reference in Saba's Preliminary Invalidity Contentions on the ground that the reference is not enabling.

7. IP Learn reserves the right to object to any reference in Saba's Preliminary Invalidity Contentions on the ground that the reference cannot be considered prior art under 35 U.S.C sections 102 and/or 103.

II. GENERAL OBJECTIONS.

IP Learn makes the following general objections, whether or not separately set forth in response to each interrogatory, to each instruction, definition, and interrogatory made in Saba's Interrogatories:

1. IP Learn objects generally to interrogatories 2 through 6 inclusive, insofar as these interrogatories seeks information or production of documents protected by the attorney-client privilege or the work product doctrine. Such information or documents shall not be provided in response to Saba's interrogatories and any inadvertent disclosure or production thereof shall not be deemed a waiver of any privilege with respect to such information or documents or of any work product immunity which may attach thereto.

2. IP Learn objects to interrogatories 2 through 6 inclusive, on the grounds and to the extent that they call for information and/or documents that contain private, business confidential, proprietary, trade secret or other information protected from disclosure pursuant to Federal Rule of Civil Procedure 26(c)(7) or Federal Rule of Evidence 501. IP Learn will only produce such responsive, relevant information and/or documents pursuant to the terms of the protective order entered in this case.

3. IP Learn objects to interrogatories 2 through 6 inclusive, to the extent they purport to impose obligations upon IP Learn beyond the requirements of the Federal Rules of Civil Procedure and the Local Patent Rules of this Court.

4. IP Learn objects to the introductory definitions and instructions to Saba's interrogatories to the extent said definitions or instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory on the ground that such enlargement, expansion, or alteration renders interrogatory vague, ambiguous, unintelligible, unduly broad, and/or uncertain.

5. IP Learn objects to interrogatories 2 through 6 to the extent that they require IP Learn to demonstrate validity of the patents-at-issue. All claims at issue are presumed to be valid unless Saba proves otherwise by clear and convincing evidence. Saba has failed to rebut that presumption of validity.

III. SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES.

Without waiving or limiting in any manner any of the foregoing General Responses, but rather incorporating them into each of the following responses to the extent applicable, IP Learn responds to Saba's Interrogatories as follows:

INTERROGATORY NO. 2:

In light of the "SuccessMaker" product (SA 6052-6572 & CD Nos. 7-9) and Saba's preliminary invalidity contentions related thereto (as conveyed in Saba's Preliminary Invalidity Contentions dated January 10, 2003, "Table 1," and accompanying exhibits), state in detail, on a claim-by-claim basis, each factual and each legal basis for YOUR contention that each claim asserted from the '486 FAMILY against Saba is valid and enforceable, if you still contend.

Such detail shall include, but is not limited to, stating on a claim-by-claim basis each aspect of each claim YOU contend is not rendered obvious or anticipated by the disclosed "SuccessMaker" product and why YOU so contend, and whether YOU contend the disclosed "SuccessMaker" product was not sold, offered for sale, publicly used or otherwise known more than one year prior to the application dates of the '486 FAMILY.

RESPONSE TO INTERROGATORY NO. 2:

In addition to the foregoing General Responses and Specific Objections, IP Learn further objects to this interrogatory on the grounds that it is inappropriate and premature. Saba has demanded that the Court construe ten additional terms in the claims of the '486 FAMILY. Because a proper validity analysis requires that the claims first be construed, this interrogatory is premature to the degree that it seeks information regarding any claim that includes one of the ten additional terms. This interrogatory is further premature because discovery in this case is incomplete. In particular, IP Learn has not received all documents relevant to SuccessMaker, and IP Learn has not had an opportunity to conduct all depositions in this case necessary to respond to this interrogatory. Consequently, IP Learn reserves the right to amend and supplement this response at the appropriate time.

IP Learn further objects to this interrogatory as vague and ambiguous to the degree that it seeks information regarding enforceability. "Validity" and "enforceability" are distinct legal

concepts that Saba appears to have incorrectly lumped together. In fact, Saba's Preliminary Invalidity Contentions referred to in the interrogatory are completely unrelated to the concept of "enforceability."

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information regarding obviousness of the '486 FAMILY beyond those positions that Saba set forth in its Preliminary Invalidity Contentions. Patent Local Rule 3-3(b) requires that Saba set out "[w]hether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items or prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified." Because Saba did not identify claims of the '486 FAMILY that were rendered obvious or any motivation for such combination, Saba has not made obviousness of the '486 FAMILY an issue in this case. Consequently, any interrogatory seeking information on obviousness of the '486 FAMILY is irrelevant.

IP Learn further objects to this interrogatory because it is overly burdensome. Saba demands that IP Learn address the validity of the '486 FAMILY in light of over 500 pages of SuccessMaker literature and thousands of megabytes of information on CD Nos. 7-9. Realizing the extreme burden of addressing all of this material, Saba, in its Preliminary Invalidity Contentions, addressed less than 50 of the 500 pages of SuccessMaker literature and completely failed to address CD Nos. 7-9. Saba shirked its responsibility under Patent L.R. 3-3 and is now demanding that IP Learn complete the validity analysis that the law and the Patent Local Rules clearly assign to Saba.

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information about material not included in Saba's Preliminary Invalid Contentions. According to Patent L.R. 3-6 and 3-7, Saba's Preliminary Invalidity Contentions are its Final Validity Contentions absent a modification made pursuant to the rules—and Saba has made no such modification. Consequently, Saba's entire position regarding validity is set forth in its Preliminary Invalidity Contentions and to the degree that Saba seeks information in this interrogatory beyond those Preliminary Invalidity Contentions, that information is irrelevant. If Saba wishes to amend its Preliminary Invalidity Contentions, then it must adhere to Patent L.R. 3.6 or 3.7.

IP Learn further objects to this interrogatory as irrelevant because SuccessMaker is not valid prior art. Although SuccessMaker appears to include a copyright mark of 1993, such copyright mark does not indicate that SuccessMaker was sold, offered for sale, publicly used or otherwise known before the application dates of the '486 FAMILY. Saba has offered no evidence regarding the effective prior art date of SuccessMaker, and after a reasonable search, IP Learn is without sufficient information to determine when, if ever, SuccessMaker was "sold, offered for sale, publicly used or otherwise known."

IP Learn further objects to this interrogatory as vague, ambiguous, and overly burdensome in asking for the dates upon which SuccessMaker was "sold, offered for sale, publicly used or otherwise known." As stated previously, the fact that a document may bear a date and/or copyright notice does not, in and of itself, show that the document was first published in the United States by no later than that date. After a reasonable search, IP Learn is without sufficient information to determine when, if ever, SuccessMaker was "sold, offered for sale, publicly used or otherwise known."

IP Learn further objects to this interrogatory as irrelevant to the extent that it seeks information about claims not asserted by IP Learn in its Revised Preliminary Infringement Contentions.

Subject to the foregoing Objections, IP Learn responds as follows: see Exhibit A, attached. Please note that all references in the chart to "disclosures" of prior art are provided by Saba. IP Learn reserves the right to object to the accuracy of these alleged disclosures, to the propriety of the references as prior art, or to enablement of the references.

INTERROGATORY NO. 3:

In light of "Industry Education Computer Based Training Strategy" (SA 4784-4894) and Saba's preliminary invalidity contentions related thereto (as conveyed in Saba's Preliminary Invalidity Contentions dated January 10, 2003, "Table 2," "Table 4," "Table 5," and "Table 7"), state in detail, on a claim-by claim basis, each factual and each legal basis for YOUR contention that each claim asserted from the PATENTS IN SUIT against Saba is valid and enforceable, if you still so contend.

Such detail shall include, but is not limited to, stating on a claim-by claim basis each aspect of each claim YOU contend is not rendered obvious or anticipated by the disclosed "Industry Education Computer Based Training Strategy," why YOU so contend, and whether YOU contend the disclosed "Industry Education Computer Based Training Strategy" was not publicly available more than one year prior to the application dates for the PATENTS IN SUIT.

RESPONSE TO INTERROGATORY NO. 3:

In addition to the foregoing General Responses and Specific Objections, IP Learn further objects to this interrogatory on the grounds that it is inappropriate and premature. Saba has demanded that the Court construe 19 additional terms in the claims addressed by this interrogatory. Because a proper validity analysis requires that the claims first be construed, this interrogatory is premature to the degree that it seeks information regarding any claim that includes one of the additional terms. This interrogatory is further premature because discovery in this case is incomplete. In particular, IP Learn has not received all documents relevant to "Industry Education Computer Based Training Strategy," and IP Learn has not had an opportunity to conduct all depositions in this case necessary to respond to this interrogatory. Consequently, IP Learn reserves the right to amend and supplement this response at the appropriate time.

IP Learn further objects to this interrogatory as vague and ambiguous to the degree that it seeks information regarding enforceability. "Validity" and "enforceability" are distinct legal concepts that Saba appears to have incorrectly lumped together. In fact, Saba's Preliminary Invalidity Contentions referred to in the interrogatory are completely unrelated to the concept of "enforceability."

IP Learn further objects to this interrogatory as irrelevant to the degree it seeks information regarding "SkillView: Engineering a More Productive WorkForce" ("SkillView"). Saba admits in its Preliminary Invalidity Contentions that it has no evidence indicating that SkillView is proper prior art. In fact, Saba expressly states that its "investigation regarding the date of [SkillView] is continuing." Saba's reliance upon SkillView for obviousness and/or motivation for combining references is improper on its face. Because SkillView is not proper prior art, any validity analysis as related to SkillView is irrelevant. IP Learn reserves the right to revisit Saba's obviousness

positions if SkillView is shown to be proper prior art.

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information regarding obviousness beyond those positions that Saba set forth in its Preliminary Invalidity Contentions. Patent Local Rule 3-3(b) requires that Saba set out "[w]hether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items or prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified." For those claims that Saba did not identify as being rendered obvious and for which no motivation for combination is set forth, Saba has not made obviousness an issue in this case, and all related information is irrelevant.

IP Learn further objects to this interrogatory because it is overly burdensome. Saba demands that IP Learn address the validity of the patents-at-issue in light of the entire set of materials from "Industry Education Computer Based Training Strategy." Saba, however, only addresses a relatively small amount of those materials in its Preliminary Invalidity contentions. Per Patent L.R. 3-3, Saba is required to set forth its invalidity position and until such time that Saba does so, it is burdensome to require IP Learn to address documents that Saba has deemed unimportant.

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information about material not included in Saba's Preliminary Invalidity Contentions. According to Patent L.R. 3-6 and 3-7, Saba's Preliminary Invalidity Contentions are its Final Validity Contentions absent a modification made pursuant to the rules—and Saba has made no such modification. Consequently, Saba's entire position regarding validity is set forth in its Preliminary Invalidity Contentions and to the degree that Saba seeks information in this interrogatory beyond those Preliminary Invalidity Contentions, that information is irrelevant. If Saba wishes to amend its Preliminary Invalidity Contentions, then it must adhere to Patent L.R. 3.6 or 3.7.

IP Learn further objects to this interrogatory as irrelevant because "Industry Education Computer Based Training System" is not valid prior art. Saba has offered no evidence regarding the effective prior art date of this reference, and after a reasonable search, IP Learn is without sufficient information to determine when, if ever, this material was publicly known or available.

IP Learn further objects to this interrogatory as vague, ambiguous, and overly burdensome in asking for the dates upon which "Industry Education Computer Based Training System" was "sold, offered for sale, publicly used or otherwise known." As stated previously, the fact that a document may bear a date and/or copyright notice does not, in and of itself, show that the document was first published in the United States by no later than that date. After a reasonable search, IP Learn is without sufficient information to determine when, if ever, "Industry Education Computer Based Training System" was publicly known or used.

IP Learn further objects to this interrogatory as irrelevant to the extent that it seeks information about claims not asserted by IP Learn in its Revised Preliminary Infringement Contentions.

Subject to the foregoing Objections, IP Learn responds as follows: see Exhibit A, attached.

INTERROGATORY NO. 4:

In light of "A Computerized Model for Placement and Diagnostic Testing in College Remedial Mathematics" (disclosed as SA 06612-07009) and Saba's preliminary invalidity contentions related thereto (as conveyed in "Table 9" enclosed with these interrogatories), state in detail, on a claim-by claim basis, each factual and each legal basis for YOUR contention that each claim asserted from the '486 FAMILY against Saba is valid and enforceable, if you still so contend.

Such detail shall include, but is not limited to stating on a claim-by-claim basis each aspect of each claim YOU contend is not rendered obvious or anticipated by the disclosed "A Computerized Model for Placement and Diagnostic Testing in College Remedial Mathematics" and why YOU so contend, and whether YOU contend the disclosed "A Computerized Model for Placement and Diagnostic Testing in College Remedial Mathematics" was not publicly available more than one year prior to the application dates of the '486 FAMILY.

RESPONSE TO INTERROGATORY NO. 4:

In addition to the foregoing General Responses and Specific Objections, IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information about material not included in Saba's Preliminary Invalidity Contentions. According to Patent L.R. 3-6 and 3-7,

Saba's Preliminary Invalidity Contentions are its Final Validity Contentions absent a modification made pursuant to the rules—and Saba has made no such modification. Consequently, Saba's entire position regarding validity is set forth in its Preliminary Invalidity Contentions and to the degree that Saba seeks information in this interrogatory beyond those Preliminary Invalidity Contentions, that information is irrelevant. If Saba wishes to amend its Preliminary Invalidity Contentions, then it must adhere to Patent L.R. 3.7, which states that amendments to the Preliminary Infringement Contentions "may be made only by order of the Court, which shall be entered only upon a showing of good cause." As previously expressed to Saba, IP Learn will not oppose a motion to the Court under Patent L.R. 3-7 to add Table 9 to the Preliminary Invalidity Contentions—assuming of course that Saba can make the showing of good cause. Until the Court grants Saba's motion, however, Table 9 is not part of Saba's Preliminary Invalidity Contentions, and consequently, Table 9 and the corresponding references are irrelevant. Saba reserves the right to revisit this interrogatory if the Court allows Saba's Preliminary Invalidity Contentions to be amended to include Table 9.

IP Learn further objects to this interrogatory on the grounds that it is inappropriate and premature. Saba has demanded that the Court construe additional terms in the claims of the '556 patent, which is the only patent referred to in Table 9. Because a proper validity analysis requires that the claims first be construed, this interrogatory is premature to the degree that it seeks information regarding any claim that includes one of the additional terms. This interrogatory is further premature because discovery in this case is incomplete. In particular, IP Learn has not received all documents relevant to "A Computerized Model For Placement and Diagnostic Testing in College Remedial Mathematics," and IP Learn has not had an opportunity to conduct all depositions in this case necessary to respond to this interrogatory. Consequently, IP Learn reserves the right to amend and supplement this response at the appropriate time.

IP Learn further objects to this interrogatory as vague and ambiguous to the degree that it seeks information regarding enforceability. "Validity" and "enforceability" are distinct legal concepts that Saba appears to have incorrectly lumped together. In fact, Saba's Preliminary Invalidity Contentions referred to in the interrogatory are completely unrelated to the concept of

"enforceability."

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information regarding obviousness beyond those positions that Saba set forth in its Preliminary Invalidity Contentions. Patent Local Rule 3-3(b) requires that Saba set out "[w]hether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items or prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified." For those claims that Saba did not identify as being rendered obvious and for which no motivation for combination is set forth, Saba has not made obviousness an issue in this case, and all related information is irrelevant.

IP Learn further objects to this interrogatory because it is overly burdensome. Saba demands that IP Learn address the validity of the patents-at-issue in light of the entire set of materials from "A Computerized Model For Placement and Diagnostic Testing in College Remedial Mathematics." Saba, however, only addresses a relatively small amount of those materials in its Preliminary Invalidity Contentions. Per Patent L.R. 3-3, Saba is required to set forth its invalidity position and until such time that Saba does so, it is burdensome to require IP Learn to address documents that Saba has not addressed.

IP Learn further objects to this interrogatory as irrelevant because "A Computerized Model For Placement and Diagnostic Testing in College Remedial Mathematics" is not valid prior art. Saba has offered no evidence regarding the effective prior art date of this reference, and after a reasonable search, IP Learn is without sufficient information to determine when, if ever, the document was known or available publicly.

IP Learn further objects to this interrogatory as vague, ambiguous, and overly burdensome in asking for the dates upon which "A Computerized Model For Placement and Diagnostic Testing in College Remedial Mathematics" was "sold, offered for sale, publicly used or otherwise known." As stated previously, the fact that a document may bear a date and/or copyright notice does not, in and of itself, show that the document was first published in the United States by no later than that date. After a reasonable search, IP Learn is without sufficient information to determine when, if ever, the document was known or available publicly.

IP Learn further objects to this interrogatory as irrelevant to the extent that it seeks information about claims not asserted by IP Learn in its Revised Preliminary Infringement Contentions.

INTERROGATORY NO. 5:

In light of "Cliff's StudyWare" (disclosed recently by SmartForce), state in detail, on a claim-by-claim basis, each actual and each legal basis for YOUR contention that each claim asserted from the '486 FAMILY against Saba is valid and enforceable, if you still so contend.

Such detail shall include, but is not limited to, stating on a claim-by-claim basis each aspect of each claim YOU contend is not rendered obvious or anticipated by the disclosed "Cliff's StudyWare" product and why YOU so contend, and whether YOU contend the disclosed "Cliff's StudyWare" product was not sold, offered for sale, publicly used or otherwise known more than one year prior to the application dates of the '486 FAMILY.

RESPONSE TO INTERROGATORY NO. 5:

In addition to the foregoing General Responses and Specific Objections, IP Learn further objects to this interrogatory as vague and ambiguous. This interrogatory refers to documents allegedly disclosed by SmartForce in a separate litigation. Saba does not refer to those documents by SmartForce bates numbers or Saba bates numbers, thereby leaving IP Learn to speculate as to which documents Saba might be referring.

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information about material not included in Saba's Preliminary Invalidity Contentions. According to Patent L.R. 3-6 and 3-7, Saba's Preliminary Invalidity Contentions are its Final Validity Contentions absent a modification made pursuant to the rules—and Saba has made no such modification. Consequently, Saba's entire position regarding validity is set forth in its Preliminary Invalidity Contentions and to the degree that Saba seeks information in this interrogatory beyond those Preliminary Invalidity Contentions, that information is irrelevant.

IP Learn further objects to this interrogatory on the grounds that it is inappropriate and premature. Saba has demanded that the Court construe additional terms in the claims of the '486 FAMILY. Because a proper validity analysis requires that the claims first be construed, this

interrogatory is premature to the degree that it seeks information regarding any claim that includes one of the additional terms. This interrogatory is further premature because discovery in this case is incomplete. Consequently, IP Learn reserves the right to amend and supplement this response at the appropriate time.

IP Learn further objects to this interrogatory as vague and ambiguous to the degree that it seeks information regarding enforceability. "Validity" and "enforceability" are distinct legal concepts that Saba appears to have incorrectly lumped together. In fact, Saba's Preliminary Invalidity Contentions referred to in the interrogatory are completely unrelated to the concept of "enforceability."

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information regarding obviousness beyond those positions that Saba set forth in its Preliminary Invalidity Contentions. Patent Local Rule 3-3(b) requires that Saba set out "[w]hether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items or prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified." Saba has not made obviousness an issue for "Cliff's StudyWare," and, consequently, all related information is irrelevant.

IP Learn further objects to this interrogatory as irrelevant because Saba has failed to demonstrate that "Cliff's StudyWare" is valid prior art. Saba has offered no evidence regarding the effective prior art date of this reference, and after a reasonable search, IP Learn is without sufficient information to determine when, if ever, the product was "sold, offered for sale, publicly used or otherwise known."

IP Learn further objects to this interrogatory as vague, ambiguous, and overly burdensome in asking for the dates upon which "Cliff's StudyWare" was "sold, offered for sale, publicly used or otherwise known." As stated previously, the fact that a document may bear a date and/or copyright notice does not, in and of itself, show that the document was first published in the United States by no later than that date. After a reasonable search, IP Learn is without sufficient information to determine when, if ever, the product was "sold, offered for sale, publicly used or otherwise known."

IP Learn further objects to this interrogatory as irrelevant to the extent that it seeks information about claims not asserted by IP Learn in its Revised Preliminary Infringement Contentions.

INTERROGATORY NO. 6:

To the extent not conveyed in response to Interrogatories Nos. 2-5, state in detail, on a claim-by-claim basis, each factual and each legal basis for YOUR contention that each claim asserted from the PATENTS IN SUIT against Saba is valid and enforceable, if you still so contend.

Such detail shall include, but is not limited to, stating on a claim-by-claim basis each aspect of each claim YOU contend is not obvious or anticipated, why YOU so contend, and shall further include an identification of any prior art that YOU contend was publicly available more than one year prior to the application dates of the PATENTS IN SUIT. Please address all references disclosed as prior art, by anyone, related to the PATENTS IN SUIT and all additional references of which you are otherwise aware.

RESPONSE TO INTERROGATORY NO. 6:

In addition to the foregoing General Responses and Specific Objections, IP Learn further object to this interrogatory as overly burdensome. Saba is in possession of all prior-art-references of which IP Learn is aware, and yet Saba has elected to address only a few of those references in its Preliminary Invalidity Contentions. Saba now seeks to force IP Learn to address those references that Saba has deemed not important enough to include in its Preliminary Invalidity Contentions.

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information about material not included in Saba's Preliminary Invalidity Contentions. According to Patent L.R. 3-6 and 3-7, Saba's Preliminary Invalidity Contentions are its Final Validity Contentions absent a modification made pursuant to the rules—and Saba has made no such modification. Consequently, Saba's entire position regarding validity is set forth in its Preliminary Invalidity Contentions and to the degree that Saba seeks information in this interrogatory beyond those Preliminary Invalidity Contentions, that information is irrelevant.

IP Learn further objects to this interrogatory on the grounds that it is inappropriate and premature. Saba has demanded that the Court construe additional terms in the claims of the patents-at-issue. Because a proper validity analysis requires that the claims first be construed, this interrogatory is premature to the degree that it seeks information regarding any claim that includes one of the additional terms. This interrogatory is further premature because discovery in this case is incomplete. Consequently, IP Learn reserves the right to amend and supplement this response at the appropriate time.

IP Learn further objects to this interrogatory as vague and ambiguous to the degree that it seeks information regarding enforceability. "Validity" and "enforceability" are distinct legal concepts that Saba appears to have incorrectly lumped together. In fact, Saba's Preliminary Invalidity Contentions referred to in the interrogatory are completely unrelated to the concept of "enforceability."

IP Learn further objects to this interrogatory as irrelevant to the degree that it seeks information regarding obviousness beyond those positions that Saba set forth in its Preliminary Invalidity Contentions.

IP Learn further objects to this interrogatory as irrelevant to the extent that it seeks information about claims not asserted by IP Learn in its Revised Preliminary Infringement Contentions.

Dated: April 24, 2003

AS TO THE OBJECTIONS:

COOLEY GODWARD LLP

By: _____
Wayne O. Stacy

Attorneys for Plaintiff IP Learn, LLC

AS TO THE RESPONSES:

IP LEARN, LLC

By: _____
Peter Tong

VERIFICATION

I, Peter Tong, Ph.D., declare:

I am the managing partner for IP Learn, LLC, which is the Plaintiff and Counterdefendant in the above-entitled action, and I have been authorized to make this verification on its behalf. I have read the foregoing Plaintiff IP Learn, LLC's Responses to Saba Software, Inc.'s Second Set of Interrogatories, and the answers set forth in those responses:

(a) are based on my personal knowledge and known to me to be true and correct; or

(b) have been gathered and compiled at my direction, and based upon the information provided to me, I believe them to be true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 24, 2003

Mountain View, California

Peter Tong, Ph.D.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
1.	**[A]** A computer-aided learning method for helping a user regarding a job in a company, the method comprising the steps of: retrieving, by a computer, a job position, which identifies the one or more jobs needed to be done for the job position; and	Arthur Andersen & Co., Industry Education Computer Based Training Strategy Appendixes - Data Base Learning Model (02/88) ("Andersen") at SA 04849; U.S. Patent 6,157,808 ("Hollingsworth"), col. 2, lines 32-37, col. 5, lines 36-37, 51-54, 60-62.	The cited material does not teach, suggest or render obvious the step of retrieving, by a computer, a job position.
	[B] determining, by the computer, whether learning materials should be presented to the user, with the materials helping the user learn about the one or more jobs;	Andersen at SA 04828.	The cited material does not teach, suggest or render obvious the step of determining, by a computer, whether learning materials should be presented.
	[C] wherein: the company has a number of documents: at least some of the learning materials are from the company documents;	Andersen at SA 04830, SA 04840.	
	[D] at least some of the documents are categorized;	See above references to Andersen regarding part **[C]**; Andersen at SA 04830-31.	

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
	[E] the method further comprises the steps of: searching at least some of the documents to extract more than one documents to be the learning materials; and	See references to Andersen regarding part **[B]**; Andersen at SA 04828.	The cited material does not teach, suggest or render obvious searching at least some of the documents to extract more than one document to be the learning material.
	[F] organizing at least some of the extracted documents based on one or more rules to prioritize them.	Andersen at SA 04850, SA 04855; US Patent 5,799,292 ("Hekmatpour"), col. 2, lines 48-53.	The cited material does not teach, suggest or render obvious organizing at least some of the extracted documents.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
2.	**[A]** A computer-aided learning method as recited in claim 1 wherein: the user is the company's employee;	See references to Andersen regarding part **[A]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[B] the job position is related to the user; and	See references to Andersen regarding part **[A]** of claim 1.	The cited material does not teach, suggest or render obvious that the job position is related to the user. Further, this claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[C] the materials help the user do the one or more jobs.	See references to Andersen regarding part **[A]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
3.	A computer-aided learning method as recited in claim 1 wherein the user occupies the job position.	See references to Andersen regarding part **[A]** of claim 1 and part **[B]** of claim 2.	The cited material does not teach, suggest or render obvious that the user occupies the job position.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
4.	A computer-aided learning method as recited in claim 1 wherein: the company has an organization chart showing a plurality of job positions; and the job position is a position in the organization chart.	Andersen at SA 04831, SA 04850; Hollingsworth, col. 3, lines 10-15.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
5.	A computer-aided learning method as recited in claim 1 wherein the job position retrieved is the job position the user is interested in.	See references to Anderson regarding part **[A]** of claim 1.	The cited material does not teach, suggest or render obvious retrieving the job position in which the user is interested. Further, this claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
10.	A computer-aided learning method as recited in claim 1 wherein, if materials should be presented, the method further comprises the step of presenting, by the computer, the learning materials to the user.	See references to Andersen regarding part **[A]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
14.	A computer-aided learning method as recited in claim 1 wherein the step of determining depends on at least a need of the company.	See references to Andersen regarding part [B] of claim 1.	The cited material does not teach, suggest or render obvious the step of determining, by a computer, whether learning materials should be presented. Further, this claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
15.	A computer-aided learning method as recited in claim 14 wherein the user is selected by the company based on at least one characteristic in the user profile.	Andersen at SA 04832, SA 04853.	The cited material does not teach, suggest or render obvious that the user is selected by the company based on at least one characteristic in the user profile. Further, this claim depends from claims 1 and 14, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
16.	A computer-aided learning method as recited in claim 14 wherein the step of determining depends on at least one characteristic in the profile of the user.	See references to Andersen regarding part **[B]** of claim 1; Andersen at SA 04828.	The cited material does not teach, suggest or render obvious the step of determining, by a computer, whether learning materials should be presented. Further, this claim depends from claims 1 and 14, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
17.	A computer-aided learning method as recited in claim 1 wherein the step of determining depends on at least one characteristic, other than the job position, in the profile of the user.	See references to Andersen regarding part **[F]** of claim 1; Andersen at SA 04832.	The cited material does not teach, suggest or render obvious the step of determining whether learning materials should be presented based on at least one characteristic, other than the job position, in the profile of the user. Further, this claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
26.	A computer-aided learning method as recited in claim 1 wherein at least one rule depends on information regarding the company.	Hekmatpour, col. 9, lines 2-5.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to state any proper motivation to combine the references. Consequently, Saba cannot prove obviousness.
32.	A computer-aided learning method as recited in claim 1 wherein: at least one document including at least one attribute, which describes that document; and the method further comprises the steps of: retrieving, by a computer, the at least one attribute of the at least one document; and categorizing, by the computer, the document based on the retrieved attribute.	Andersen at SA 04828, SA 04830-31; Hekmatpour, col. 9, lines 48-57, col. 6, lines 3-4, col. 7, lines 33-38.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
33.	A computer-aided learning methods as recited in claim 1 wherein: the company includes an organization chart; and at least some of the documents are categorized depending on the organization chart.	Andersen at SA 04851.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
34.	A computer-aided learning method as recited in claim 1 further comprising the steps of: searching, by a computer, the documents categorized to extract one or more of them to be the learning materials; and	See references to Andersen regarding parts **[D]** and **[E]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	wherein the step of searching depends on the one or more jobs needed to be done for the job position, and a job that is related to the one or more jobs.	See references to Andersen and Hollingsworth regarding claim 25.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
35.	**[A]** A computer-aided apparatus for helping a user, who is associated with a company, regarding a job in the company, based on a job position related to the user, the apparatus comprising: a retriever configured to retrieve the job position, which identifies the one or more jobs needed to be done for the job position; and	See references to Andersen and Hollingsworth regarding part **[A]** of claim 1.	The cited material does not teach, suggest or render obvious the step of retrieving, by a computer, the job position.
	[B] a determinator configured to determine whether learning materials should be presented to the user, with the materials helping the user learn about the one or more jobs;	See references to Andersen regarding part **[B]** of claim 1.	The cited material does not teach, suggest or render obvious a determinator configured to determine whether learning materials should be presented.
	[C] wherein: the company has a number of documents; at least some of the learning materials are from the company documents;	See references to Andersen regarding part **[C]** of claim 1.	
	[D] at least some of the documents are categorized;	See references to Andersen regarding part **[D]** of claim 1.	

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
	[E] at least some of the documents are searched to extract more than one documents to be the learning materials; and	See references to Andersen regarding part [E] of claim 1.	The cited material does not teach, suggest or render obvious the step of searching at least some of the documents to extract more than one document to be the learning material
	[F] at least some of the extracted documents are organized based on one or more rules to prioritize them.	See references to Andersen and Hekmatpour regarding part [F] of claim 1.	The cited material does not teach, suggest or render obvious organizing at least some of the extracted documents.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
36.	A computer-aided learning apparatus as recited in claim 35 wherein: the user is the company's employee;	See references to Andersen regarding part **[A]** of claim 2.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	the job position is related to the user; and	See references to Andersen regarding part **[B]** of claim 2.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	the materials help the user do the one or more jobs.	See references to Andersen regarding part **[C]** of claim 2.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
37.	A computer-aided learning apparatus as recited in claim 35 wherein the user occupies the job position.	See references to Andersen regarding claim 3.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
38.	A computer-aided learning apparatus as recited in claim 35 wherein: the job position is a position in an organization chart of the company.	See references to Andersen and Hollingsworth regarding claim 4.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
39.	A computer-aided learning apparatus as recited in claim 35 wherein the job position retrieved is the job position the user is interested in.	See references to Andersen regarding claim 5.	The cited material does not teach, suggest or render obvious a retriever for retrieving the job position the user is interested in. Further, this claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
45.	A computer-aided learning apparatus as recited in claim 35 wherein: the documents categorized are searched to extract one or more of them to be the learning materials; and	See references to Andersen regarding parts **[D]** and **[E]** of claim 1.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	the searching depends on the one or more jobs needed to be done for the job position, and a job that is related to the one or more jobs.	See references to Andersen and Hollingsworth regarding claim 25.	This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 4

Invalidity Claim Chart: The '448 Patent (Andersen)

Patent No. 6,126,448			
Claim No.	**Claim**	**Prior Art**	
46.	A computer-aided learning apparatus as recited in claim 35 wherein the documents are categorized depending on at least one characteristic of the profile of the user.	See reference to Andersen regarding claim 30.	The cited material does not teach, suggest or render obvious categorizing documents based on at least one characteristic of the profile. This claim depends from claim 35, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
1.	**[A]** A computer-aided learning method for a user comprising the steps of: retrieving, by a first computer, materials related to the user;	Arthur Andersen & Co. Industry Education Computer Based Training Strategy, Appendixes--Data Base Learning Model (02/88) ("Andersen") at SA 04849-51.	Appendix F (SA 4848-4894), entitled, A VISION FOR THE FUTURE, is not enabling and, consequenlty, not valid prior art.
	[B] permitting, by the computer, the user to access materials regarding at least one learning user if the user is an institute user, as determined based on an identifier of the user;	Andersen at SA 04850, SA 04853, SA 04855, SA 04857.	The cited material does not teach, suggest or render obvious the step of permitting the user to access materials based on an identifier of the user.
	[C] wherein if the user is the institute user, the institute user can learn about the at least one learning user in an area the institute user is interested;	See references to Andersen regarding part **[B]**.	
	[D] wherein the materials accessed can be retrieved by at least one of the users from another computer, which is connected to the first computer through a network; and	Andersen at SA 04850.	
	[E] wherein the institute user pays to access materials regarding the at least one learning user; a learning user is allowed to access materials to learn; and materials on at least one of the users can be tracked and updated.	Andersen at SA 04850, SA 04853, SA 04855, SA 04857.	The cited material does not teach, suggest or render obvious that the institute user pays to access materials regarding the at least one learning user.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
2.	**[A]** A computer-aided learning method as recited in claim 1 further comprising the steps of: tracking, by the computer, materials regarding the user; and	See references to Andersen regarding part **[E]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[B] updating, by the computer, materials regarding the user based on the tracked materials.	See references to Andersen regarding part **[E]** of claim 1.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
3.	A computer-aided learning method as recited in claim 2 further comprising the step of ascertaining materials for the user to learn if the user is a learning user.	Andersen at SA 04828, SA 04849, SA 04850.	This claim depends from claims 1 and 2, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
5.	A computer-aided learning method as recited in claim 2 wherein if the user is a learning user, the step of tracking includes tracking the user's learning activities.	See references to Andersen regarding part **[E]** of claim 1.	This claim depends from claims 1 and 2, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
7.	**[A]** A computer-aided learning method as recited in claim 5 wherein: the user is learning features of a product; and	Andersen at SA 04828, SA 04835, SA 04836, SA 0849-51; U.S. Patent No. 5,999,908 ("Abelow"), see abstract and also see col. 13, lines 50-52; col. 29, lines 38-31; and col. 40, lines 58-63; U.S. Patent No. 5,592,375 ("Salmon"), abstract.	The cited material does not teach, suggest or render obvious that the user is learning features of a product. This claim depends from claims 5, 2 and 1, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. The combination of Anderson, Abelow, and Taylor as indicated in paragraph 5(a) of the PICs is improper because Saba has failed to comply with L.R. 3-3 by refusing to identify which elements of Taylor are relied upon to demonstrate obviousness. Further, Saba has failed to point to proper motivation for combining the references.
	[B] the activities tracked include the one or more features the user worked on.	See references to Andersen regarding part **[E]** of claim 1; and see Abelow, abstract and col 18 lines 20-24, col. 23, lines 57-59; and col. 29, line 55 - col. 20 line 4.	This claim depends from claims 5, 2 and 1, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
8.	A computer-aided learning method as recited in claim 7 wherein the method is implemented at a Web site.	Andersen at SA 04850; Abelow, col. 87 lines 5-32; U.S. Patent No. 5,832,497 ("Taylor,") col. 6, lines 58-60; Salmon, abstract.	The cited material does not teach, suggest or render obvious that the method is implemented on a Web site. Further, this claim depends from claims 7, 5, 2 and 1, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. The combination of Anderson, Abelow, and Taylor as indicated in paragraph 5(a) of the PICs is improper because Saba has failed to point to proper motivation for combining the references.
10.	A computer-aided learning method as recited in claim 2 wherein the institute user accesses the materials to identify a learning user for filling a job position.	Andersen at SA 04850, SA 04853; Taylor, abstract, col. 5, lines 43-46, 59-62, col. 4, lines 54-56, col. 4 line 63 - col. 5 line 5, col. 6, lines 35-40; "SkillView: Engineering a More Productive WorkForce," by SkillView Technologies ("SkillView") at SA 04742-47.	The cited material does not teach, suggest, or render obvious that the institute user accesses the materials to identify a learning user. This claim depends from claims 2 and 1, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
11.	A computer-aided learning method as recited in claim 10 further comprising the step of querying materials on learning users to identify a learning user to fill the job position based on criteria set by the institute user.	See references to Andersen, Taylor, and SkillView regarding claim 10.	The cited material does not teach, suggest, or render obvious the step of querying materials to fill the job position based on criteria set by the institute user. This claim depends from claims 10 and 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
14.	A computer-aided learning method as recited in claim 10 wherein the method is implemented at a Web site.	See references to Andersen, Taylor, and Abelow regarding claim 8.	The cited material does not teach, suggest or render obvious that the method is implemented at a Web site. This claim depends from claims 10 and 1, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
22.	A computer-aided learning method as recited in claim 2 wherein the materials to learn includes materials on features of a product introduced by an institute user.	See references to Andersen and Abelow regarding part [A] of claim 7.	The cited material does not teach, suggest or render obvious that the materials to learn include materials on features of a product introduced by an institute user. This claim depends from claims 1 and 2, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
23.	A computer-aided learning method as recited in claim 2 wherein the method is implemented at a Web site.	See references to Andersen, Taylor, and Abelow regarding claim 8.	The cited material does not teach, suggest or render obvious that the method is implemented at a Web site. This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. The combination of Anderson, Abelow, and Taylor as indicated in paragraph 5(c) of the PICs is improper because Saba has failed to point to proper motivation for combining the references.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
25.	**[A]** A computer-aided learning apparatus for a user comprising: A retriever configured to retrieve materials related to the user; and	See references to Andersen regarding claim 1 part **[A]**.	Further, Appendix F (SA 4848-4894), entitled, A VISION FOR THE FUTURE, is not enabling and, consequenlty, not valid prior art.
	[B] A determinator configured to permit the user to access materials regarding at least one learning user if the user is an institute user, as determined based on an identifier of the user;	See references to Andersen regarding claim 1 **[B]**.	The cited material does not teach, suggest or render obvious a determinator configured to permit the user to access materials based on an identifier of the user.
	[C] wherein the materials accessed can be retrieved by at least one of the users from another computer, which is connected to the apparatus through a network; and	See references to Andersen regarding claim 1 part **[C]**.	
	[D] wherein if the user is the institute user, the institute user can learn about the at least one learning user in an area the institute user is interested;	See references to Andersen regarding claim 1 part **[D]**.	
	[E] wherein the institute user pays to access materials regarding the at least one learning user; a learning user is allowed to access materials to learn; and materials on at least one of the users can be tracked and updated.	See references to Andersen regarding claim 1 part **[E]**.	The cited material does not teach, suggest or render obvious that the institute user pays to access materials regarding the at least one learning user.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
26.	A computer-aided learning apparatus as recited in claim 25 further comprising: a tracker configured to track materials regarding the user; and an updater configured to update materials regarding the user based on the tracked materials.	See references regarding claim 2.	This claim depends from claim 25, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
53.	**[A]** A computer-aided learning method for a user comprising the steps of: retrieving, by a first computer, materials related to the user;	See references to Andersen regarding part **[A]** of claim 1.	Further, Appendix F (SA 4848-4894), entitled, A VISION FOR THE FUTURE, is not enabling and, consequenlty, not valid prior art.
	[B] permitting, by the computer, the user access materials regarding at least one learning user if the user is an institute user, as determined based on an identifier of the user;	See references to Andersen regarding part **[B]** of claim 1.	The cited material does not teach, suggest or render obvious a the step of permitting the user access materials based on an identifier of the user.
	[C] wherein if the user is the institute user, the institute user can learn about the at least one learning user in an area the institute user is interested;	See references to Andersen regarding part **[C]** of claim 1.	
	[D] wherein the materials accessed can be retrieved by at least one of the users from another computer, which is connected to the first computer through a network;	See references to Andersen regarding part **[D]** of claim 1.	

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
	[E] wherein the institute user pays so that materials can be accessed; wherein a learning user is allowed to access materials to learn; wherein materials on at least one of the users can be monitored and updated; and	See references to Andersen regarding part [E] of claim 1.	The cited material does not teach, suggest or render obvious that the institute user pays to access materials regarding the at least one learning user.
	[H] wherein the first computer includes a Web server.	See references to Andersen, Taylor, and Abelow regarding claim 8.	The cited material for Anderson and Abelow do not teach, suggest or render obvious that the first computer includes a Web server. The combination of Anderson, Abelow, and Taylor as indicated in paragraph 5(c) of the PICs is improper because Saba has failed to point to proper motivation for combining the references.
54.	A computer-aided learning method as recited in claim 53 wherein the learning user allowed to access materials, works for the institute user.	Andersen at SA 04850; SkillView at SA 04745, SA 04746, SA 04747, SA 04748, SA 04749, SA 04755.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to point to proper motivation for combining the references.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
56.	A computer-aided learning method as recited in claim 53 wherein at least a portion of the materials to learn depends on an attribute of the learning user allowed to access materials.	Andersen at SA 04849; Taylor, col. 3, lines 22-60, col. 6, lines 1-24; and see references to SkillView regarding claim 54.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
57.	A computer-aided learning method as recited in claim 53 wherein at least a portion of the materials to learn depends on an area related to the background of the learning user allowed to access materials.	See references to Andersen, Taylor, and SkillView regarding claim 56.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
58.	A computer-aided learning method as recited in claim 53 wherein at least a portion of the materials to learn depends on an interest of the learning user allowed to access materials.	See references to Andersen, Taylor, and SkillView regarding claim 56.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
59.	A computer-aided learning method as recited in claim 53 wherein at least a portion of the material to learn depends on a job of the learning user allowed to access materials.	Taylor, col. 3, lines 22-60; and see references to Andersen and SkillView regarding claim 56.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
60.	A computer-aided learning method as recited in claim 53 wherein the learning progress of the learning user allowed to access materials is monitored.	Andersen at SA 04850, SA 04855, SA 04857; SkillView at SA 04746, SA 04756.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to point to proper motivation for combining the references.
61.	A computer-aided learning method as recited in claim 60 wherein at least a portion of materials to learn depends on the learning progress of the learning user allowed to access materials.	See references to Andersen regarding claim 60; see SkillView at SA 04755-56.	This claim depends from claims 60 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to point to proper motivation for combining the references.
64.	A computer-aided learning method as recited in claim 53 wherein at least a portion of the materials to learn depends on an objective of the institute user.	See references to Taylor and SkillView regarding claim 54; and see Andersen at SA 04850, SA 04852, SA 04853, SA 04855.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
65.	A computer-aided learning method as recited in claim 64 wherein at least a portion of the materials to learn is modified as the objective of the institute user changes.	Andersen at SA 04850, SA 04853, SA 04854, SA 04828, SA 04835; SkillView at SA 04742-45, SA 04751-56.	This claim depends from claims 64 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to point to proper motivation for combining the references.
67.	A computer-aided learning method as recited in claim 53 further comprising identifying by the institute user a person to do a job depending on an objective of the institute user.	See references to Taylor regarding claims 10-11; and see Andersen at SA 04850, SA 04853; SkillView at SA 04742-47.	This claim depends from claim 1, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
68.	A computer-aided learning method as recited in claim 53 wherein the learning user allowed to access materials is monitored, and the method further comprises identifying by the institute user that learning user to do a job based on materials regarding that learning user.	Taylor, abstract, col. 5, lines 43-46, 59-62, col. 4, lines 54-56, col. 4 line 63 - col. 5 line 5, col. 6, lines 35-40; and see references to Andersen and SkillView regarding claim 67.	The cited material does not teach, suggest or render obvious the step of identifying by the institute user that learning user to do a job. This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
72.	A computer-aided learning methods as recited in claim 53 wherein at least a portion of the materials to learn is modularized as learning objects.	Taylor, col. 3, lines 17-64, Andersen at SA 04849, SA 04850, SA 04853, SA 04857; SkillView at SA 04755; USP 5,799,292 ("Hekmatpour") col. 5, lines 7-11.	The cited material does not teach, suggest or render obvious that at least a portion of the materials to learn is modularized as learning objects. This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
73.	**[A]** A computer-aided learning method as recited in claim 53 wherein the learning user allowed to access materials, works for the institute user,	See references to Andersen and SkillView regarding claim 54 and see Hekmatpour, col. 1, lines 22-30.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid. Further, Saba has failed to point to proper motivation for combining the references.
	[B] wherein the method further comprises testing that learning user, and	Andersen at SA 04850, SA 04857.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
	[C] wherein the learning progress of that learning user is monitored.	See references to Andersen and SkillView regarding claim 60.	This claim depends from claim 53, which is neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
74.	[A] A computer-aided learning method as recited in claim 73 wherein at least a portion of the materials to learn depends on an objective of the institute user, and	See references to Andersen regarding to claim 64; and see Taylor, col. 3, lines 43-55, col. 4, lines 33-53; SkillView at SA 04745, SA 04746, SA 04747, SA 04748, SA 04749, SA 04755, SA 04756.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[B] wherein at least a portion of the materials to learn is from the institute user.	See references to Andersen, Taylor, and SkillView regarding part [A] of claim 74.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
77.	A computer-aided learning method as recited in claim 74 wherein at least a portion of the materials to learn is modularized as learning objects,	See references to Andersen, Taylor, SkillView, and Hekmatpour regarding claim 72.	The cited material does not teach, suggest or render obvious that at least a portion of the materials to learn is modularized as learning objects. This claim depends from claims 74, 73 and 53, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	wherein at least a portion of the materials to learn depends on a job of that learning user, and	See references to Andersen, Taylor, and SkillView regarding claims 56-59.	This claim depends from claims 74, 73 and 53, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	wherein at least a portion of materials to learn depends on that learning user's learning progress.	See references to Andersen and SkillView regarding claims 60-61.	This claim depends from claims 74, 73 and 53, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
78.	A computer-aided learning method as recited in claim 77 further comprising identifying by the institute user a person to do a job depending on an objective of the institute user.	See references to Andersen, Taylor, and SkillView regarding claim 67.	The cited material does not teach, suggest, or render obvious the step of identifying a person to do a job depending on an objective of the institute user. This claim depends from claims 77, 74, 73 and 53, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
79.	A computer-aided learning method as recited in claim 74 further comprising identifying by the institute user a person to do a job depending on an objective of the institute user; wherein at least a portion of the materials to learn depends on a job of that institute user.	See references to Andersen, Taylor, and SkillView regarding claims 56, 59, and 67.	This claim depends from claims 74, 73 and 53, which are not anticipated or rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
80.	**[A]** A computer-aided learning method as recited in claim 73 wherein at least a portion of the materials to learn is modularized as learning objects,	Andersen at SA 04849, SA 04850, SA 04853, SA 04857; Taylor, col. 3, lines 17-64; SkillView at SA 04755; USP 5,799,292 ("Hekmatpour") col. 5, lines 7-11.	The cited material does not teach, suggest or render obvious that at least a portion of the materials to learn is modularized as learning objects. This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[B] wherein at least a portion of the materials to learn is for a customer of the institute user to learn, and	See reference to Abelow regarding part **[A]** of claim 7.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[C] wherein at least a portion of the materials to learn, depends on a job of that learning user.	See references to Andersen, Taylor, and SkillView regarding claims 56 and 59.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.

TABLE 7

Invalidity Claim Chart: The '556 Patent (Andersen)

Patent No. 6,398,556			
Claim No.	**Claim**	**Prior Art**	
84.	**[A]** A computer-aided learning method as recited in claim 73 wherein at least a portion of the materials to learn is for a customer of the institute user to learn,	See reference to Abelow regarding part **[A]** of claim 7.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[B] wherein at least a portion of the materials to learn depends on an interest of that learning user, and	See references to Andersen Taylor, and SkillView regarding claim 56 and also see reference to Abelow regarding part **[A]** of claim 7.	This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.
	[C] wherein at least a portion of the materials to learn depends on an area related to the background of that learning user.	See references to Andersen, Taylor, and SkillView regarding claim 56.	The cited material does not teach, suggest, or render obvious that a portion of the materials to learn depends on an area related to the background of that learning user. This claim depends from claims 73 and 53, which are neither anticipated nor rendered obvious in light of the material cited by Saba. Because it depends from a valid claim, this claim is also valid.